

**DRAFT**  
**TOWN BOARD MEETING**

**April 27, 2005**

Supervisor Pagones opened the Town Board meeting at 9:30 am, Town Hall, 807 Route 52, Fishkill, New York and led the audience with the "Pledge of Allegiance".

Present: Supervisor Joan A. Pagones; Town Board members, Steve Ferguson, Ronald Leenig, Heather Malvarosa, Dennis Zack; Town Attorney, Ronald Blass; Town Engineer, John Andrews; Paul Gromkowski, Housing Director; Christopher Colsey, MDD; Hema Patel, accounting; Robert Wheeling, Comptroller; Paula Sarvis, Assessor; George McGann, Building Inspector; Officer Kangas; Robert Feldman - Splashdown Beach; Mark Day, PE - Hasbrook and Magnolia; Eugene Ninnie, PE, Robert Chiulli - Chiulli rezone; Art Brod - Magnolia Townhouse; Kurt Kuehner - Magnolia; Kenneth Stenger, Esq.; Azem Albra; and Town Clerk, Darlene Bellis

**ANNOUNCEMENTS**

**2005 "Summer" Town Board meetings**

Supervisor Pagones read the 2005 Summer Town Board meetings into the record.

**APPROVAL OF MINUTES**

Supervisor Pagones stated that the minutes of bid opening - surplus police vehicles 04-08-2005, regular minutes 04-06-2005, and special town board minutes 04-13-2005 were distributed and she would entertain a motion to approve said minutes.

**Motion** made by Councilman Ferguson **to approve said minutes as submitted by the Town Clerk.** **Seconded** by Councilman Leenig Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye) Motion Carried

**Motion** made by Councilman Zack **to reject all the bids as they were below minimum price and to re-bid the surplus police vehicles.** **Seconded** by Councilwoman Malvarosa Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye) Motion Carried

**PRESENTATION(s)/DISCUSSION(s)**

**Dog War Memorial(s)**

Supervisor Pagones read (**copies attached to original minutes**) several articles in regards to War Dogs.

Tom Masch, Dog War Memorial, stated he lives in Wappingers. He continued by saying that people in general love to memorialize everything but that we have forgotten one individual, the war dogs. Mr. Masch has a proposal to have a working dog memorial added to the war memorials that are here today. He gave different locations that have war dog memorials.

Supervisor Pagones stated there are a number of committees in the town, and she will have Heather and Steve to serve as a committee to work with Mr. Masch to get this dog war memorial going. She instructed Heather, Steve and Tom to meet after the meeting to discuss the memorial further.

**Personnel discussion**

Supervisor Pagones stated the Board members were briefed from Susan McGuire, Personnel Director regarding a personnel matter involving Hema Patel who works in the accounting department.

**Motion** made by Councilwoman Malvarosa **to approve the personnel matter as discussed previously with Board. Seconded** by Councilman Ferguson

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

### **MOTION(s) TO APPROVE/ADOPT**

#### Hasbrook Place site rezoning (formerly Montfort Boom)

Town engineer, John Andrews, walked the Board through his memo (**copy attached to original minutes**) dated April 26, 2005 in regards to Hasbrook Site Plan (Montfort Boom Property) rezoning request. He suggested that the town consider the limitations outlined in his memo.

Supervisor Pagones asked John Andrews and Chris Colsey to address the issues with the Planning Board. This Board could hold a special meeting to set a public hearing after all items have been addressed.

#### Chiulli rezoning application

Town Engineer, John Andrews, reviewed his memo (**copy attached to original minutes**) dated April 26, 2005 in regards to Robert Chiulli rezoning, 106 Old Route 9 request. He suggested that the project sponsor address the comments before the board sets a public hearing for this rezoning project.

Eugene Ninnie stated he would submit his comments to the EAF by Friday.

Supervisor Pagones stated the Board could hold a special meeting to set a public hearing after all items have been addressed.

#### Magnolia Townhouse - DEIS

Town Engineer, John Andrews, gave a brief description/location of the project. He stated that the DEIS was submitted on March 23, 2005 and must be determined within 45 days of the receipt of that document whether it is adequate in respect to the scope and content for commencing public review.

This Board has to determine its completeness by no later than May 7, 2005. He suggested that any one who had comments to have them to the Board by the May 04, 2005 meeting. This document has not been before the town in quite a while and certain modifications have been made. John Andrews listed the following items that he believes the Board should take into consideration: The applicant requests to rezone the property from R-40 to RMF-5, important related issues in regards to water capacity, sewer capacity, consistency with the Town's comprehensive plan and affordable housing, the current proposal is for a multi-family residential of 70 units, for sale townhouses (33-2bdrms and 37-3bdrms), proposing that 14 units be considered affordable work force housing (7-2bdrms and 7-3bdrms). The applicant has prepared a targeted EIS which deals with some very specific issues, land use zoning access, comprehensive plan consistency, the affordable housing issue, water supply, sanitary sewer, the storm water management, the traffic along Route 9D, the impact on community service, and the visual impact. John Andrews stated that the Town needs to solicit input from Ted Fink from GreenPlan and himself. He continued by saying that it is important that this document needs to be in the hands of Mr. Gromkowski, Housing Director, to determine how consistent this project is with the housing analysis.

Town Engineer, John Andres, asked the Board to place this item on the next Town Board agenda for May 4<sup>th</sup> and request the Town Clerk to obtain comments from Ted Fin, himself and Mr. Gromkowski, if they deem it appropriate.

Art Brod, Planners East Inc., stated that Mr. Andrews made a usual comprehensive and totally accurate representation of the project. The only thing he wanted to add is there is no additional density credit being claimed for the affordable units and the affordable units are not rental units but for sale units.

Authorize David Hagstrom to enter into a Consent Judgment

Supervisor Pagones read (**copy attached to original minutes**) a resolution authorizing David D. Hagstrom to enter into a Consent Judgment settling the tax certiorari proceedings brought by J. W. Mays, Inc.

**Motion** made by Councilman Leenig **to authorize David D. Hagstrom to enter into a Consent Judgment as read in resolution above.**

**Seconded** by Councilman Ferguson

Roll Call	Councilman Ferguson	aye
	Councilman Leenig	aye
	Councilwoman Malvarosa	aye
	Councilman Zack	aye
	Supervisor Pagones	aye

Motion Carried

Municipal Searches

Supervisor Pagones read (**copy attached to original minutes**) memo from Christopher Colsey, MDD, in regards to the Municipal Searches.

**Motion** made by Councilman Zack **to approve the changes to the municipal searches as requested by Christopher Colsey in its entirety.** **Seconded** by Councilwoman Malvarosa

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

Beacon Hills Water Connection

Supervisor Pagones read (**copy attached to original minutes**) a letter from John Andrews, Town Engineer, in regards to the Beacon Hills Water District request for connection and his recommendation that the Town defer a permit to connect due to the connection would be substandard, and the district may not be able to provide sufficient water to supply a new house.

Town Engineer, John Andrews, stated that he is asking the Board to defer action right now because he did meet in the field with Mr. Joseph. His engineer is taking a look a few issues, they are trying to reach an agreeable situation whereby as a consequent of his development we upgrade some of the water main and then he would be able to get service. He stated that they are still in the investigating stage.

Stop Sign Request-Splash Down Beach

Supervisor Pagones read (**copy attached to original minutes**) a letter from Robert Feldman requesting two stop signs on Old Route 9 in the North/South direction.  
Supervisor Pagones read (**copy attached to original minutes**) memo from Glenn Scofield, Highway Superintendent, and Donald Williams, Police Chief, suggesting the Town Board approve said request for two stop signs on Old Route 9 in the North/South direction.

**Motion** made by Councilman Ferguson **to approve three stop signs as requested from Robert Feldman - Splash Down Beach.** **Seconded** by Councilman Leenig

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

Town Attorney, Ronald Blass, advised the Board that this will need a local law.

Appeal letter under FOIL - #1

Appeal letter under FOIL - #2

Supervisor Pagones asked the Town Clerk, Darlene Bellis to give a brief introduction to these appeal letters under FOIL. She stated that she would then ask Mr. Azem Albra to give a brief comment after Ms. Bellis goes.

Town Clerk, Darlene Bellis, gave a brief history of each FOIL request (when first request was received, when FOIL was addressed to applicant and referred to appropriate department, when the appeal letters were received). She went on to say that she didn't understand why the appeal letters were delivered as she hadn't denied access to any of the requested information. Town Clerk, Darlene Bellis, did say that the appeal letter under FOIL #1 was withdrawn.

Azem Albra agreed with everything that the Town Clerk stated but asked what would be proper time for waiting before he puts in an appeal.

Town Attorney, Ronald Blass, replied that he has talked to the Town Clerk, Darlene Bellis, about the process of FOIL requests and to smooth out the bumps here, the Town Clerk would add a date in the letter by which it is to be anticipated that a response would be made in order that we don't have appeals predating denials.

Supervisor Pagones asked if it was safe to say that the documents requested are still under sealed order.

Town Attorney, Ronald Blass, answered that the bottom line on these incident reports is that they are subject to an official sealing order and will not be made available.

Supervisor Pagones stated that if they could be made available, they would be made available. The fact that they are under seal and have no idea when they will be unsealed, if unsealed it needs to be done by court order.

After discussion between Town Attorney, Ronald Blass, and Azem Albra in regards to the access of the documents, depositions, accusatory instruments, investigator notes, incident reports, etc. with respect to the arrest of a town resident before and after the sealing of the files, it was determined that Azem Albra's appeal be denied due to records being sealed per Judge's decision.

Councilman Zack asked Mr. Albra that based on his foil request for this individual knowing that you are not a party to the action or not related, is this part of an investigation you're conducting.

Azem Albra replied that there is only one piece of information that he really wants.

Councilman Zack stated that was not the question he asked him, is this part of an investigation.

Azem Albra answered that he does not work as a private investigator nor does he seek to, he is not licensed in New York State to do investigation work.

**Motion made by Councilman Zack to deny the appeal due to the fact that the records have been sealed. Seconded by Councilman Ferguson Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)**  
Motion Carried

Request to use two voting machines

Supervisor Pagones read (**copy attached to original minutes**) a request from Susan M. Penney, District Clerk - Wappingers Central School District to use two (2) voting machines for their Budget Vote on Tuesday, May 17, 2005.

**Motion** made by Councilman Zack **to approve the request to use two voting machines for the Wappingers Central School Budget Vote on May 17, 2005. Seconded** by Councilwoman Malvarosa  
Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

Postage meter rental contract

Supervisor Pagones read (**copy attached to original minutes**) the postage meter rental contract as submitted by James A Foy, Purchaser.

**Motion** made by Councilwoman Malvarosa **to approve the contract as submitted by James A. Foy, Purchaser, as it will be required and needed. Dm 4000 Seconded** by Councilman Zack  
Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

Hudson Valley Renegades request

Supervisor Pagones read (**copy attached to original minutes**) an e-mail from George McGann informing the Board that Hudson Valley Renegades have requested the following: May 06 music/fireworks; June 05 K104 Fest; July 03 Concert; multiple post game fireworks.

**Motion** made by Councilman Zack **to approve the above dates and events as requested from the Hudson Valley Renegades. Seconded** by Councilwoman Malvarosa  
Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

Liquor License Renewal - H Town Corp

Supervisor Pagones read (**copy attached to original minutes**) the OK from Police Chief, Donald Williams, dated 04-14-2005 for H Town Corp.

**Motion** made by Councilman Ferguson **to approve the liquor license renewal as submitted. Seconded** by Councilman Leenig  
Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

Seasonal Recreation Pay

Councilman Zack read (**copy attached to original minutes**) a memo from Cindy Starke requesting the adjustment of salary for the seasonal (camp) recreation personnel and made a **Motion to approve said request. Seconded** by Councilman Ferguson  
Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)  
Motion Carried

**BUDGET TRANSFERS**

**Motion** made by Councilwoman Malvarosa **to approve the budget transfers as submitted as follows:**

Comptroller	\$ 6,542	to re-allocate budgets to cover traffic ticket computer project
Comptroller	\$ 46,312	to establish grant budgets for command vehicle and electronic ticket accident report projects

Comptroller	\$ 24,525	to establish budget for grant for phase II of command vehicle project
Comptroller	\$ 1,426	to cover unemployment insurance for D. Kazimir prior deputy town clerk
Comptroller	\$ 248	to cover unemployment insurance for D. Kazimir prior deputy town clerk

**(copies attached to original minutes)**

**Seconded** by Councilman Zack

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

## **NEW and OLD BUSINESS**

### **Councilwoman Malvarosa**

The 2<sup>nd</sup> annual Dog Show Off will be held on May 21<sup>st</sup> at the Slater Chemical Fire house from 1-3 and the rabies/licensing clinic will be held also. Last year was a great success and plan on this year being just as much a success if not more.

The Animal Disaster Plan is going along slow but steady.

The Dial-A-Ride meeting will be this Thursday.

### **Councilman Zack**

Nothing

### **Councilman Ferguson**

The budget transfers for the software and hardware in collecting the past due tickets has been passed.

### **Councilman Leenig**

The past commander of the VHW passed away, Nate Dykman and the calling hours will be forthcoming. The funeral will be on Thursday at 10:00 am.

**Motion** made by Councilman Leenig **to support and approve a grant request to the New York State Unified Court System Justice Assistance Program not to exceed \$8,000.** **Seconded** by Councilman Ferguson

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

## **PRIVILEGE OF THE FLOOR FOR PUBLIC COMMENTS**

**Motion** made by Councilman Ferguson **to go into the privilege of the floor for public comments.** **Seconded** by Councilman Zack

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

Azem Albra in regards to the foil process stated it has improved dramatically under the supervision of the town clerk and it is much appreciated.

Town Attorney, Ronald Blass, stated he could have the agreement between Horizons at Dogwood Lane LLC and the Town of Fishkill drawn up to authorize the builder to apply for and receive a building permit for the project and stated there should be an authorization to have the Supervisor sign said agreement when ready.

**Motion** made by Councilman Ferguson **to authorize the Supervisor to enter into an agreement when it is acceptable by the Town Attorney.**

**Seconded** by Councilwoman Malvarosa

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

Regular Order of Business

**Motion** made by Councilman Zack **to go back into the regular order of business. Seconded** Councilman Ferguson

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

EXECUTIVE SESSION

**Motion** made by Councilman Ferguson **to go into executive session.**

**Seconded** by Councilman Zack

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

Executive Session at 10:41 am

Regular Order of Business

**Motion** made by Councilman Ferguson **to go back into the regular order of business. Seconded** by Councilman Leenig

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

Regular business at 11:00 am

ADJOURNMENT

**Motion** made by Councilman Ferguson **to adjourn the meeting.**

**Seconded** by Councilman Leenig

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried

Meeting adjourned at 11:01 am

Respectfully submitted,

Darlene Bellis,  
Town Clerk